opposite direction and having at least one perforation in each flange segment; and

fastening means slidably embraced within said T-shaped [or U-shaped] channel and extending through the perforation in said flange segment and thereby fastened to said vertical post.

19. (Amended) Apparatus as set forth in Claim 18 wherein the T-shaped channel has an inwardly extending tab at the end of each leg of said T-shaped channel.

B (amd)

20. (Amended) Apparatus as set forth in Claim 18 wherein the railing has at least two T-shaped channels.

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24. (Amended) Apparatus as set forth in Claim 23 wherein the railing and vertical posts are formed from aluminum by an extrusion process.

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Cancel Claims 6, 13, 17, and 23 without prejudice.

REMARKS

Claims 1-5, 7-12, 14-16, 18-22, and 24 are in the case.

Specification Amendment

The Specification has been amended to clarify the shape of the channel, and to delete reference to the direction inwardly in accordance with the Examiner's suggestions.

Abstract Amendment

The Abstract has been amended to correct certain informalities.

Claims Amendments

The Claims have been amended to comply with the Examiner's suggestions.

Claims 1, 4, 7, 8, 14-18, and 24 have been amended to correct certain deficiencies and informalities in accordance with the Examiner's suggestions.

Claims 1, 8, and 18 have been amended to more particularly point out and distinctly claim that which Applicant regards as his invention to delete the U-shaped channel and the one leg of the U-shaped channel extending inwardly within the U-shaped channel.

Drawings Objection

The drawings stand objected to under 37 CFR 1.83(a).

Claims 1, 8, and 18 have been amended to delete the U-shaped channel and the one leg of the U-shaped channel extending inwardly within the U-shaped channel. (See Claims 1, 8, and 18 as amended).

Referring to Figure 1, an isometric view of a barrier or a fence 1 shows a single longitudinal extending railing 3 having a longitudinal direction as indicated by the directional arrow A and a width indicated by the directional arrow B. The railing can be of variable width and length, and those parameters are dependant primarily upon the barrier application to be addressed. The railing has a length of from 5-20 feet and a width of from ½ to 2 feet. The railing can be a solid panel, either straight, waffle, W-shaped or the like. It also can be in the form of a grid.

Common to the longitudinal extending railing 3 is at least one substantially T-shaped channel 5 extending in the longitudinal direction of the railing. As shown in Figure 1, two T-shaped channels or slots 5 are shown.

For the foregoing reasons, the objection to the drawings under 37 C.F.R. 1.83(a) is believed to have been overcome by the amendments to the claims, and the objection is respectfully requested to be withdrawn.

The drawings stand further objected to under 37 CFR 1.83(a).

The specification at page 7, line 15, has been amended to delete reference to the direction inwardly. No new matter has been added.

For the foregoing reasons, the objection to the drawings under 37 C.F.R. 1.83(a) is believed to have been overcome by the amendments to the Specification, and the objection is respectfully requested to be withdrawn.

Specification Objection

The Specification stands objected to because of certain informalities.

The Specification has been amended to clarify the shape of the channel and to delete reference to the direction inwardly, in accordance with the Examiner's suggestions, and the objection to the Specification is respectfully requested to be withdrawn.

For the foregoing reasons, the objection to the Specification is believed to have been overcome by the amendments to the Specification, and is the objection is respectfully requested to be withdrawn.

Claims Objection

Claims 1, 4, 7, 8, 14-18, and 24 stand objected to for certain informalities identified specifically and recited in the Office Action.

Claims 1, 4, 7, 8, 14-18, and 24 have been amended in accordance with the Examiner's suggestions, and the objection is respectfully requested to be withdrawn.

35 USC §112

Claims 1-5, 7-12, 14-16, 18-22, and 24 stand rejected under 35 U.S.C. 112, second paragraph, as indefinite.

Claims 1, 8, and 18 have been amended to delete reference to U-shaped channel.

For the foregoing reasons, the rejection of Claims 1-5, 7-12, 14-16, 18-22, and 24 under 35 U.S.C. 112, second paragraph, is believed to have been overcome by the amendments to the Claims, and the rejection is respectfully requested to be withdrawn.

35 USC § 102

Claims 1-3, 8-10, and 18-20 stand rejected under 35 U.S.C. 102(b) as anticipated by Case U.S. Patent No. 3,388,892 (hereinafter "Case").

Case discloses a screened highway safety rail having wire fabric.

Applicant's invention as claimed as amended requires a longitudinally extending railing having a T-shaped channel which is nowhere taught or suggested in Case.

The T-shaped channel is important for customizing barriers of different lengths and elevation without cutting the rails to form, and without drilling positioning holes or perforations in the railings or fastening the rails to the vertical posts with bolts and the like.

For the foregoing reasons, the rejections of Claims 1-5, 7-12, 14-16, 18-22, and 24 under 35 U.S.C. 102(b) as anticipated by Case U.S. Patent No. 3,388,892 is based on an insufficient reference and is respectfully requested to be withdrawn.

35 USC § 103

Claims 1-2, 4, 5, 7-9, 11, 14-18, 19, 21, 22, and 24 stand rejected under 35 U.S.C. 103(a) as unpatentable over McMullin U.S. Patent No. 3,258,250 (hereinafter "McMullin") in view of Case U.S. Patent No. 3,388,892 (hereinafter "Case").

McMullin discloses a bridge railing and H-shaped support posts.

There is no motivation to combine the McMullin and Case references. McMullin relates to bridge rails, and Case relates to wire fabric.

Even assuming but not granting or admitting that one would have combined the McMullin and Case reference, McMullin supplies none of the critical differences of the Case reference. McMullin teaches H-shaped support posts.

Applicant objects to the Examiner taking judicial notice that is well known in the art to make a railing or posts by an extrusion process, and a reference in support of the assertion of prior art is required. The reference also should show motivation to combine the references, e.g., to use wire fabric as taught in Case.

For the foregoing reasons, the rejections of Claims 1-2, 4, 5, 7-9, 11, 14-18, 19, 21, 22, and 24 stand rejected under 35 U.S.C. 103(a) as unpatentable over McMullin U.S. Patent No. 3,258,250 (hereinafter "McMullin") in view of Case U.S. Patent No. 3,388,892 is based on an improper combination of insufficient references and is respectfully requested to be withdrawn.

Formal acceptance of the drawings, subsequent to the instant amendments of the Claims, is earnestly solicited.

Reconsideration of this Application is requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE SPECIFICATION

At page 7-8, paragraph 2. To facilitate an understanding of the characteristics of the T-shaped or U-shaped channel, reference is made to Figure 2. If the slot is generally T-shaped, the tee has extending legs which provides support for fastening means. [If substantially U-shaped, at least one of the legs, preferably both of the legs of the U-shaped channel 5, should extend inwardly]. As shown, each of the legs of the generally U-shaped channel has an [inwardly] extending tab 7 at the end of each leg. Tab 7 then acts as the [inwardly] extending leg of the U-shaped channel and provides a mechanism for retaining the fastening means to be described while permitting slidable movement of the fastening means within the U-shaped channel along the longitudinal axis A. Optionally, the legs of the U-shaped channel may be bent [inwardly] to retain the fastening means while permitting slidable movement, but the use of [inwardly] extending tabs is preferred. The number of T-shaped or U-shaped channels 5 carried by railing 3 is dependant primarily upon the width of railing 3 and design criteria for support. Typically, a railing carries two T-shaped or U-shaped channels.

IN THE ABSTRACT

ABSTRACT [OF THE DISCLOSURE]

[This invention relates to apparatus and method providing barrier construction. In one aspect, this invention is particularly directed to a novel] Novel construction, design, and installation of barriers, where customization is required such as in industrial arenas,[. Novel barriers are comprised of] include at least one longitudinally extending railing supportably fastened to at least two vertically extending posts. [The] A novel barrier construction incorporates a longitudinally extending railing having at least one generally T-shaped or U-shaped channel extending in the longitudinal direction [of said] with at least one leg of the U-shaped channel extending inwardly within the U-shaped channel[; and,]. [a] A plurality of vertically extending posts [having] have an elongated body and [having] at least two flange segments. Each flange segment has at least one perforation for facilitating fastening to the T-shaped or U-shaped channel.

IN THE CLAIMS

1. (Amended) In a barrier comprised of at least one longitudinally extending railing supportably fastened to vertically extending posts, the improvement in such barrier which comprises:

at least one longitudinally extending railing having at least one generally T-shaped [or a U-shaped channel] extending in the longitudinal direction of said railing [and wherein at least one leg of the U-shaped extends inwardly within said U-shaped channel];

vertically extending posts having an elongated body and having at least two flange segments extending outwardly in opposite direction and having at least one perforation in each flange segment; and

fastening means slidably embraced within said T-shaped [or U-shaped] channel and extending through [a] the perforation in said flange segment and thereby fastened to said vertical post.

2. (Amended) The barrier of Claim 1 wherein the [U-shaped] T-shaped channel has an inwardly extending tab at the end of each leg of said [U-shaped] T-shaped channel.

3. (Amended) The barrier of Claim 2 wherein the railing has at least two [U-shaped] T-shaped channels.

7. (Amended) The barrier of Claim 4 wherein the railing and vertical [post] posts are formed from aluminum by an extrusion process.

8. (Amended) A method for providing a barrier having at least one longitudinally extending railing supportably fastened to vertically extending posts, comprising:

providing at least one longitudinally extending railing having at least one generally T-shaped [or a U-shaped] channel extending in the longitudinal direction of said railing [and wherein at least one leg of the U-shaped channels extends inwardly within said U-shaped channel];

providing vertically extending posts having an elongated body and having at least two flange segments extending outwardly in opposite direction and having at least one perforation in each flange segment; and

slidably fastening to said vertical post said T-shaped [or U-shaped] channel and through a perforation in said flange segment.

9. (Amended) The method of Claim 8 wherein the [U-shaped] T-shaped channel has an inwardly extending tab at the end of each leg of said [U-shaped] T-shaped channel.

10. (Amended) The method of Claim 9 wherein the railing has at least two [U-shaped] T-shaped channels.

14. (Amended) The method of Claim 10 wherein the railing and vertical [post] posts are formed from aluminum by an extrusion process.

15. (Amended) The method of Claim 11 wherein the railing and vertical [post] posts are formed from aluminum by an extrusion process.

16. (Amended) The method of Claim 12 wherein the railing and vertical [post] posts are formed from aluminum by an extrusion process.

18. (Amended) Apparatus, comprising:

a barrier having at least one longitudinally extending railing supportably fastened to vertically extending posts;

at least one longitudinally extending railing having at least one generally T-shaped [or a U-shaped] channel extending in the longitudinal direction of said railing [and wherein at least one leg of the U-shaped channels extends inwardly within said U-shaped channel];

the vertically extending posts having an elongated body and having at least two flange segments extending outwardly in opposite direction and having at least one perforation in each flange segment; and

fastening means slidably embraced within said T-shaped [or U-shaped] channel and extending through [a] the perforation in said flange segment and thereby fastened to said vertical post.

19. (Amended) Apparatus as set forth in Claim 18 wherein the [U-shaped] T-shaped channel has an inwardly extending tab at the end of each leg of said [U-shaped] T-shaped channel.

20. (Amended) Apparatus as set forth in Claim 18 wherein the railing has at least two [U-shaped] T-shaped channels.

24. (Amended) Apparatus as set forth in Claim 23 wherein the railing and vertical [post] posts are formed from aluminum by an extrusion process.